IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No :9763 of 2000

Dated: 26.06.2007

Between:
Hari Narasimhulu

..... PETITIONER

AND

1.The State of A.P. represented by the
Secretary to the Government, Revenue (JA)
Department, Secretariat Building, Hyderabad
and 5 others …RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.9763 of 2000

ORDER:

This writ petition is filed seeking quashing of the order of the 1st respondent passed in G.O.Ms.No.325, Revenue (JA) Department, dated 20.05.2000.

The case of the petitioner is that the Zamindar of Andhra inducted his forefathers and others into Zirayti land measuring Ac.5.00 under patta No.42 long prior to 1927 and they had

been paying the cist to the Zamindar. However, the 4th respondent-Settlement Officer, Visakhapatnam, rejected patta on the ground that they did not establish induction prior to 01.07.1945 into the land. The 3rd respondent-Director of Settlements confirmed the order of the 4th respondent by order dated 08.07.1987. The 2nd respondent-Commissioner of Settlements on a further revision filed, set aside the order of the 3rd respondent-Director of Settlements and granted ryotwari patta under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act') by order dated 28.12.1994. It is stated that the 5th respondent and others are not parties before any of the settlement authorities and they filed a revision petition before the 1st respondent-Government against the order of the 2nd respondent-Commissioner of Settlements. The petitioner contested the matter by filing a counter that the 1st respondent-Government has no jurisdiction to entertain any further revision petition against the order of the 2nd respondent-Commissioner of Settlements passed under Section 11 (a) of the Act. However, the 1st respondent-Government passed the impugned order cancelling ryotwari patta granted by the 2nd respondent-Commissioner of Settlements.

Having heard the learned Counsel for the petitioner, learned Government Pleader for Revenue and learned Counsel for respondent No.5, I am totally in agreement with the contentions put forth by the learned Counsel for the petitioner, Sri A.Rangacharyulu. He submits that the rules made under Section 67 (1) and (2) of the Act deals with the powers of the Government and it is only those orders included in the schedule appended to the rules supplement to Part I of the Fort St. George Gazette dated 16.08.1949 the Government gets power to revise the said orders but not every order passed under the Act. As per the said schedule it is only the orders passed under Section 3 (d), proviso, Section 6, Section 11 proviso etc., which can be revised by the Government.

In the case on hand, evidently the petition is one filed under Section 11 (a) of the Act for grant of ryotwari patta and though the 4th respondent-Settlement Officer as well as the 3rd respondent-Director of settlements rejected the claim, the 2nd respondent-Commissioner of Survey, Settlements and Land Records having perused the entire material on record held that the claimants are entitled for grant of ryotwari patta and accordingly allowed the appeal. Against the said order passed by the 2nd respondent, in my considered view, no further revision lies to the Government in view of the bar provided under the rules stated supra. It is only the order passed under the proviso to Section 11 of the Act over which the Government will get jurisdiction and revise the same. In this context it may be relevant to refer to the judgment of this Court reported in SATYANARAYANA V. BAPAYYA[1], wherein it is clearly held that the order under Section 11 (a) of the Act for grant of ryotwari patta passed by the Board of Revenue is not at all revisable by the Government. The said judgment of the learned single judge was also confirmed by a Division Bench of this Court in W.A.No.11 of 1963 reported in GOVERNMENT OF A.P. V. SATYANARAYANA[2].

The learned Counsel for the 5th respondent, Sri A.Rama Rao, has made submission to

impress upon this Court that DKT pattas were granted in favour of the 5th respondent and others and they are in possession of the land in question. This question cannot be gone into by this Court as it concerns only with the impugned order, which has now been held to be an order passed without having any jurisdiction in view of the rules stated supra.

In the light of the above discussion, this Court is of the view that the Government has no jurisdiction to entertain any revision petition against the order of the 2nd respondent-Commissioner of Settlements passed under Section 11 (a) of the Act.

The writ petition is accordingly allowed and the impugned order of the 1st respondent dated 20.05.2000 is quashed. However, if the 5th respondent has any grievance of the order passed by the 2nd respondent, he can take remedies that may be available to him in law. No costs.

(GOPALA KRISHNA TAMADA, J)

26-06-2007
Gsn.

[1] AIR 1963 A.P. 148
[2] 1965 (II) ALT 449